

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the)	
relation of State Engineer,)	
)	
Plaintiff,)	
)	69cv07941-BB-ACE
-v-)	
)	RIO CHAMA STREAM SYSTEM
RAMON ARAGON et al.,)	
)	Subfile CHRU-004-0044
Defendants.)	
_____)	

ORDER GRANTING MOTION FOR DEFAULT JUDGMENT

THIS MATTER is before the Court on the Motion for Default Judgement filed October 11, 2004 (Docket No. 7611) by the State of New Mexico, ex rel. State Engineer (State). No response has been filed by defendant Henry G. Coors.

Being fully advised in the premises, and for the reasons set forth below, the Court finds the Motion is well-taken and should be GRANTED.

The State seeks a default judgment against Mr. Coors in connection with the irrigation water rights found and mapped by the hydrographic survey of the Rutheron subsection of Section 7. The hydrographic survey identified those rights under the name of Henry G. Coors under the assumption that the water rights had been severed from title to the land, and that Mr. Coors had retained ownership of the rights. The State now requests that the Court render a default judgment against Mr. Coors, finding that he has no interest in water rights mapped under Subfile CHRU-004-0044, and finding further that the water rights are appurtenant to the lands which are owned by other defendants.

In support of its Motion, the State cites examples of Mr. Coors' inaction with respect to the adjudication of this subfile over the past several years, including the failure to attend a field office and a scheduling conference as ordered by the Special Master. See, Procedural Order filed November 19, 2002 (No. 6939), Orders filed September 7 and 13, 2004 (Nos. 7583 and 7587), and pp. 4-9, 12 - 15 of the transcript of the September 20, 2004, scheduling and status conference. Further, the Court notes that Mr. Coors' failure to timely file and serve a response in opposition to the Motion constitutes consent to grant the motion. D.N.M.LR-Civ. 7.1(b); Rule 7.6, Administrative Order Establishing Motion Practice and Procedure entered July 11, 1997.

The Court finds, therefore, that Mr. Coors has no interest in the irrigation water rights described in Subfile CHRU-004-0044.

The State also requests that the Court find that the water rights remain appurtenant to the land now owned by other defendants, as those defendants have described their interests in their Claims of Water Rights (Nos. 7514, 7515, and 7516). The request is premature. In the subfile phase of this adjudication, the ownership of water rights and all other elements of the rights typically are presented by the State and the defendants in the form of a consent order, which is then confirmed by the Court. Accordingly, the State shall prepare an appropriate consent order, or orders, for defendants' signatures and submission to the Court.

The State shall serve Mr. Coors with a copy of this Order.

IT IS SO ORDERED.



BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

/electronic signature/
SPECIAL MASTER VICKIE L. GABIN